Prepared testimony was filed by Ameritech Illinois, Staff, AT&T and MCI. An evidentiary hearing was held on October 23, 1995, for cross examination of witnesses, after which the record was marked "Heard and Taken." Opening and Reply Briefs were filed by Ameritech Illinois, Staff, AT&T and MCI. A Hearing Examiner's Proposed Order was served on the Parties. Exceptions were filed by Ameritech Illinois, CUB, AT&T, Staff and MCI. No Reply Briefs on Exceptions were filed. Where necessary, changes necessitated by these exceptions have been incorporated into this Order.

I. TESTIMONY OF THE PARTIES

Ameritech Illinois

Ameritech Illinois presented the testimony of two witnesses: David Gebhardt and G. Mitchell Wilk. Mr. Gebhardt is the Company's Vice President of Regulatory Affairs. Mr. Gebhardt testified that the purpose of the tariff filing was to improve the Company's ability to respond to customer demand characteristics and evolving market conditions in exercising the limited pricing flexibility granted the Company under the alternative regulation plan adopted in Docket 92-0448. He stated that under the price index established by the Commission in the plan, price changes would nearly always be price decreases based on current and forecasted levels of inflation. Furthermore, he stated that the Commission determined in its order in Docket 92-0448 that there should be no increase in basic residential service prices for five years and that in a worst case scenario, application of the price index for other services would be unlikely to result in a price increase of more than six percent for any service over five years. He further stated that the Commission concluded, based on this analysis, that the maximum price that the Company would be permitted to charge for any service under the price index formula would also be reasonable. However, within the constraints of the price index and service baskets under the plan, Mr. Gebhardt stated that the Company should be allowed to exercise its business judgment in determining how to implement price changes within and across customer classes.

Mr. Gebhardt also described the two specific tariff filings. He stated that the interstate End User Common Line ("EUCL") charge was higher for multiline business customers than for single line business customers. The initial intent of separate rate elements for single line and multiline business network access lines was to give the Company the ability to equalize the overall charges for single line and multiline network access lines. He stated that the purpose for separate rate elements for business and residence directory assistance was to allow the Company to implement the rate reductions required for the "Other" service on different services for residence and business customers.

The Company had proposed in its March 31, 1995, price index filing to lower the rate of multiline business network access lines in Access Area A by $.63 per month and to lower the per call rate for directory assistance for business customers from $.30 to $.29, (while also lowering the rates for Custom Calling services for residence customers.) The multiline business network access line and business directory assistance rate reductions were withdrawn when the Commission suspended the Company's tariffs establishing separate elements.

Mr. Gebhardt testified that the price changes contemplated in the Company's tariff filings, or that would be possible under the alternative regulation plan, would not result in "unreasonable discrimination" under the Public Utilities Act (the "Act"). He noted that the Act permitted reasonable differences in service prices and that only "unreasonable" price differences were prohibited. He stated that while differences in service costs was one reasonable basis for price differences between customer classes, it was by no means the only one. He noted that the historic price differentials between residence, business and carrier customer classes were not cost-based.

Mr. G. Mitchell Wilk, President of Wilk & Associates, Inc., a public policy research and consulting firm, also testified for the Company. He testified that "economic price discrimination" as defined by economists and "unreasonable price discrimination" as determined by regulators are different concepts. He defined economic price discrimination as charging different prices for products or services that have the same cost, or charging the same price for products or services that have different costs.

Mr. Wilk testified, on the other hand, that "unreasonable price discrimination" from a regulatory perspective is not subject to precise definition and that regulators must exercise discretion, experience and knowledge in determining whether price differences are "unreasonable." He stated that there are many instances where regulators have found economic price discrimination to be reasonable. As an example, he cited the price differences between what residence and business customers traditionally have been charged for services having essentially the same cost. He stated that the Commission should draw guidance from these historic price differences in determining what level of economic price discrimination should be considered reasonable.

Mr. Wilk also stated that the Commission should review price differentials for reasonableness in the context of its overall policy goals, including promoting competition, protecting customers who lack choices, promoting universal service, promoting economically efficient pricing, and allowing customer demands and costs to interact through market mechanisms wherever possible. He

cautioned against the traditional approach, more appropriate in the era of pure monopoly, of automatically challenging, suspending and investigating any non-traditional price difference proposed by the Company. He stated his belief that the carefully crafted consumer protections in the alternative regulation plan would protect consumers, and he recommended that the Commission allow the Company a fair opportunity to take advantage of the limited pricing flexibility approved in that plan in responding to customer needs and market conditions.

Mr. Wilk reviewed the Company's tariff filings and the alternative regulation plan approved by this Commission. He stated his opinion that the price differences which were contemplated in the Company's tariff filings or which would be possible under the alternative regulation plan would not result in unreasonable price discrimination under the Act.

Staff

Staff presented the testimony of two witnesses: Mr. Jake E. Jennings and Mr. James D. Webber. Mr. Jennings is an Economic Analyst in the Telecommunications Department, Office of Planning and Policy of the Commission. Mr. Webber is an Economic Analyst in the Telecommunications Department, Public Utilities Division of the Commission.

Mr. Jennings addressed the issue of unreasonable price discrimination under the Act. He stated that while the primary purpose of this proceeding was to determine whether the two proposed tariffs were just and reasonable, the tariffs raised important issues of first impression regarding the concept of undue price discrimination in an alternative regulation environment. He recommended that the Commission articulate a policy regarding what price differences would be considered reasonable. He stated that "(t)he articulation of a broad public policy which delineates when a rate structure is reasonable, as well as what degree of pricing flexibility should be allowed within that rate structure, will reduce the uncertainty inherent to regulation."

Mr. Jennings stated that the tests of economic price discrimination and unreasonable discrimination under the Act are not the same. Mr. Jennings defined economic price discrimination as a situation where the sale (or purchase) of different units of a good or service is at price differentials not directly corresponding to differences in supply cost.

Mr. Jennings further testified that there is no clear statutory standard to determine if a rate structure is unreasonably discriminatory under the Act. He stated that determining whether economic price discrimination resulted in unreasonable

discrimination under the Act involved a determination of what was in the public interest. He stated that public interest was made up of several factors, including economic efficiency and equity or "fairness."

(a) Economic efficiency

Economic efficiency refers to a situation in a market where welfare is maximized and any departure from that point would make society worse off. Mr. Jennings stated that economic efficiency is a key goal in regulation. It gives regulators clear guidance on how to emulate a competitive environment and to objectively determine the public interest.

Mr. Jennings also stated that a market is considered efficient when the price of a product or service is equal to the marginal cost of producing the good or service. However, where a firm's marginal costs are lower than its average costs, as is the case with Ameritech, the firm must price above marginal cost in order to stay in business. He stated that in this situation, economic price discrimination can improve economic efficiency relative to a uniform price structure. He testified that in such a situation, some consumers are made better off while other consumers are made relatively worse off in terms of welfare analysis. Traditionally, such a situation is known as a second best solution, in that prices are not set at marginal cost.

Mr. Jennings identified Ramsey pricing as an example of one such second best solution. Under Ramsey theory, prices are set differently in markets or submarkets based on the demand elasticities of each submarket, with prices in more elastic markets or submarkets set closer to marginal cost and prices in less elastic markets or submarkets set higher than marginal costs. In this manner, the required amount of revenues are received by the company while the allocative inefficiencies that occur from pricing above marginal cost are minimized.

Mr. Jennings stated that Ramsey pricing and deaveraging of rates based on cost differences have in common that they both increase economic efficiency, even though in the Ramsey theory there is no cost basis for charging different prices for the same service to different customer classes or submarkets. He stated that the application of Ramsey theory increases economic efficiency whether it is applied between customer classes or within an existing customer class.

In addition to promoting economic efficiency, Mr. Jennings testified that allowing the Company to price differently between and within customer classes based on Ramsey theory had the additional benefit that it deterred uneconomic entry. He stated, that

> (i)f the Company is not allowed pricing flexibility in relatively elastic submarkets for a service, then the Commission could encourage uneconomic entry by potential competitors because it would restrain the Company from pricing its services closer to marginal cost. Once the market became sufficiently competitive to allow the Company to classify the service as competitive, the Company could then price the service at a competitive level, which could be below the costs of the competitor who entered only because Ameritech Illinois was required to maintain an artificially high price. In this situation, the competitor would be forced out of the market because it would produce the service at an inefficient level, resulting in wasted resources due to uneconomic entry.

Mr. Jennings went on to point out, however, that Ramsey theory only promotes economic efficiency so long as the prices are set above marginal cost. If the Company is allowed to set prices below marginal cost in the more elastic markets while raising or maintaining prices in the less elastic markets, then a more efficient competitor may not be able to compete because the price in the elastic market is less than the Company's marginal cost. This is called predatory pricing. To avoid predatory pricing, Mr. Jennings stated that the Company should not be allowed to price a noncompetitive service below Long Run Service Incremental Cost ("LRSIC"). He further stated that informational imputation should be required for noncompetitive tariffed inputs.

(b) Equity or fairness

Mr. Jennings stated that the equity or fairness component in determining the public interest is not easily quantifiable; rather, it is based on the judgment of the Commission regarding how captive consumers should be treated, including price. He stated that "(r)egardless of any efficiency gain, a pricing structure could be deemed not in the public interest because it is grossly unfair to certain consumers, even though some consumers benefit and other are no worse off." Mr. Jennings, however, did not limit the equity or fairness condition to only situations that were grossly unfair. In particular, Mr. Jennings stated that applying a fairness condition would include situations that were grossly unfair or counter to existing Commission and statutory policies or objectives as a first step. See Transcript at 70.

Based on his analysis, Mr. Jennings recommended that the Commission adopt a policy that economic price discrimination between or within customer classes should be considered reasonable if:

1. Prices are set no higher than the price index permits under the alternative regulation plan, i.e., a price cannot increase by more than the change in the PCI plus 2% each year;

2. Prices are set above LRSIC, with imputation of noncompetitive tariffed inputs in each submarket; and

3. In the judgment of the Commission, the prices are fair based on a consideration of other Commission policies.

Based on his analysis and the analyses performed by Mr. Webber, Mr. Jennings recommended approval of the Company's tariff filings for separate rate elements for (a) single line and multiline business network access lines and (b) for business and residence directory assistance service. He stated that any future rate changes proposed within the restructured tariffs should be subject to his three conditions to insure economic efficiency and fairness. He also stated that consistent with the Commission's Order in Docket 94-0096 (Customers First), the Company should be required to show that the price of multiline business network access lines was equal to or greater than the sum of the prices of the unbundled loops and ports offered on a multiline basis.

Mr. Webber testified that he reviewed the Company's LRSIC studies for Business Direct Line and PBX Trunk access lines and for directory assistance service. The Company did not submit separate LRSIC studies for single line vs. multiline business network access lines or for business vs. residence directory assistance service. The Company did not contend in this proceeding that there were cost differences in providing these services.

Mr. Webber also analyzed the price/cost margin for each subcategory of each service using the Lerner Index. If the price/cost margin is positive, then the service is priced above LRSIC. He utilized three scenarios. In the first scenario, he assumed no price change from existing prices; in the second, he assumed that the price changes proposed by the Company in its March 31, 1995, price index filing had been approved; in the third, he assumed the maximum price disparity that could be implemented under the alternative regulation plan over the next four years. In all instances, the price/cost margin was positive.

AT&T

AT&T presented the testimony of Cathleen M. Conway, a Regulatory Manager in its Central Region Government Affairs Division. Ms. Conway testified that the Company's proposed structural separation of single and multiline business network access line service and business and residence directory assistance service were not objectionable in themselves. She testified that she is concerned with potential rate changes in the future. She stated that the Commission should examine any future price changes within these services to insure that, over time, the relationship between price and LRSIC for noncompetitive services remained reasonable and nondiscriminatory. In addition, Ms. Conway recommended three additional requirements. First, she stated that the Commission should require the Company to satisfy a separate imputation test for each subclass created. Second, the sum of the parts rule adopted in Customers First should apply to each subclass of business network access line service. Third, the Commission should reaffirm that no restrictions could be placed on the resale of any of these services.

Ms. Conway testified that she disagreed with the testimony of Mr. Wilk where he suggested that as long as price changes were made in compliance with the alternative regulation plan, they would not result in unreasonable discrimination. She stated that this approach would effectively insulate Ameritech's prices, terms and conditions for non-competitive services from scrutiny on discrimination grounds so long as they are produced under and are consistent with the overall framework of the price regulation plan. She stated that the Commission rejected this approach in the Alternative Regulation Order which stated as follows:

> The Company should not interpret our endorsement as an abandonment of our long-standing commitment to marginal cost-based prices. The Commission wishes to make clear that by approving an alternative regulation plan, we will not abdicate our responsibility to scrutinize the pricing practices of the Company, and we will suspend proposed price changes where warranted, even if the proposed price changes are in technical compliance with the price regulation formula.

Docket No. 92-0448, Order p. 191, October 11, 1994.

In her opinion, price changes made in compliance with the alternative regulation plan were just and reasonable in the sense that they would not generate excessive profits from the customer groups in question. However, the question of undue price discrimination was a distinct one, which needs to be reviewed on a case-by-case basis in light of other Commission polices as well.

MCI

MCI presented the testimony of Dennis L. Ricca, its Senior Regulatory Analyst for Regulatory and Legislative Affairs for the Eastern Division. Mr. Ricca stated that MCI was not opposed to the Company's proposed tariff restructure itself. He stated, however, that the Commission should be concerned with the possibility that Ameritech could use the illusion of new services created by renaming an old one in order to circumvent the Commission's consumer protections within a plan.

Mr. Ricca testified that compliance with the alternative regulation plan should not relieve the Company from responsibility to comply with other statutory requirements such as imputation and the prohibition against unreasonable discrimination. He stated that he could not see how a company falling under a price cap plan can be excused from meeting any other statutory requirements that are not specifically waived by the statute itself under an alternative regulation regime. He further stated that the imputation requirement still applies to companies under price caps. He also stated that the Commission should extend the requirement that a service be priced above LRSIC to noncompetitive services. He recommended that each tariff filing be reviewed on a case-by-case basis.

In his testimony, Mr. Ricca defined undue price discrimination or unreasonable discrimination as the charging of two different prices for the same service without a cost difference on which to base the difference in prices. He stated that this definition does not appear to change for non-competitive services with a change in the method of regulation. Mr. Ricca, thus, stated that the interpretation of unreasonable discrimination that has evolved under rate of return regulation should be the interpretation applied in an alternative regulation environment.

II. REBUTTAL TESTIMONY

On rebuttal, Mr Gebhardt stated that the Company generally agreed with Mr. Jennings' three conditions under which economic price discrimination would be considered reasonable under the Act. As to the first condition, the Company is already subject to the pricing constraints of the alternative regulation plan so this not a new requirement. As to the second condition, Mr. Gebhardt noted that the Act does require that all competitive services be priced above LRSIC; the Company has long had a general policy of pricing services above LRSIC so this requirement is not objectionable, subject to the caveat that exceptions may need to be recognized in appropriate circumstances such as special promotions, provided that the service as a whole still meets the requirement. He stated that the Commission has regularly approved these promotional filings.

As to the imputation requirement for noncompetitive tariffed elements, Mr. Gebhardt noted that Mr. Jennings' imputation requirement was consistent with the informational imputation test requirement in Customers First, and, therefore, was acceptable to the Company. As to the third condition, Mr. Gebhardt agreed that fairness was always a requirement that should be examined by the Commission. However, he stated that in its decision in the alternative regulation plan, Customers First, this docket and other proceedings, the Commission had largely established the fairness criteria by which tariffs would be considered. Therefore, if a proposed tariff restructure or price change within a subclass of service complied with all existing Commission policies, the circumstances in which a fairness override would apply should be extremely rare.

Mr. Gebhardt noted that Mr. Jennings stated that his three conditions would apply to economic price discrimination both within and across customer classes but that he did not attempt to define all the possible bases for creating subclasses of service. Mr. Gebhardt stated that submarkets can and should be defined based on one or more of several criteria: customer class, volume of service, density of service, geographic location of service, market entry conditions, or other factors where differential pricing would promote economic efficiency.

As to Ms. Conway's recommendation that there should be no restrictions on resale of any service provided in a submarket, Mr. Gebhardt noted that existing Commission orders restrict resale of lower priced residence services to business customers, and that beyond these existing restrictions the Company was not proposing any new resale restrictions in this docket. Mr. Gebhardt stated that any broader review of resale restrictions should be reserved for pending Commission workshops regarding resale or for other appropriate proceedings.

Mr. Wilk also stated his general agreement with the conditions proposed by Mr. Jennings, subject to Mr. Gebhardt's clarifying comments.

Mr. Wilk testified that he disagreed with Mr. Ricca's assertion that the test of economic price discrimination and unreasonable price discrimination under the Act are the same. He noted that this position was inconsistent with Mr. Ricca's statement that the interpretation of unreasonable discrimination that has evolved under rate of return regulation should be the interpretation applied in an alternative regulation environment.

Mr. Wilk stated numerous examples of economic price discrimination the Commission had determined to be reasonable in the past.

Staff

On Rebuttal, Mr. Jennings stated that his three part test generally satisfied the concerns expressed by AT&T and MCI. He agreed with AT&T that the sum of the parts rule in customers First should apply to the multiline business network access line rate. He also stated that consistent with Ms. Conway's view, he was not recommending that Ameritech Illinois be allowed to place any new resale restriction on its services, including those in new submarkets.

Mr. Jennings testified that Mr. Ricca's conclusion definition of undue price discrimination is too broad. Mr. Jennings reiterated his position that price discrimination can improve economic efficiency. He further testified that such price discrimination should not be considered unreasonable if there are no countervailing public interest or equity concerns.

Mr. Jennings also responded to Mr. Ricca's contention that Ameritech could circumvent the Alternative Regulation Plan's consumer protections by renaming old services. Mr. Jennings stated that he addressed this concern when he recommended that Ameritech's prices in new submarkets be treated the same as in the original market. In addition, Mr. Jennings presented an estimate of the forecasted changes in the PCI and concluded that Ameritech Illinois' maximum allowed percentage price increase for individual services (assuming no exogenous factor increases) would not exceed the growth rate of the Consumer Price Index and the growth rate of Disposable Income. He stated that in this case, all price increases, including those for newly created submarkets, are expected to be in real terms, price decreses.

In his rebuttal testimony, Mr. Webber stated his agreement that separate informational imputation tests should be required in each submarket or subclass of service.

AT&T

Ms. Conway agreed that Mr. Jennings' three conditions were an appropriate framework in which to review proposed tariff restructures or proposed price changes within subclasses of service. Contrary to the testimony of Mr. Gebhardt, she stated that even minor changes in the price of a service in a submarket should trigger the requirement for an imputation test. She agreed that the many factors Mr. Gebhardt listed as possible criteria for the creation of new submarkets are potential factors upon which to define a submarket; however, she stated that the reasonableness of

any given factor must be analyzed on a case-by- case basis. Ms. Conway suggested that since the Company was dividing directory assistance into business and residence classifications, the Commission should consider transferring business directory assistance to the business basket to maintain the protections of the alternative regulation plan.

MCI

Mr. Ricca disagreed with the criticism of his testimony that the test of economic price discrimination was the same as the test of unreasonable price discrimination under the Act. He stated that the examples of approved price discrimination cited by Mr. Wilk were largely examples of price discrimination between customer classes and that the Company's proposed tariffs would permit discrimination within a customer class.

III. COMMISSION ANALYSIS AND CONCLUSIONS

In Docket 92-0048, the Commission established rates for the Company's services, which the Commission found to be just and reasonable. The Commission precluded any increase in basic residential rates for five years. For other services, the Commission prescribed a price index to govern price changes in individual service rates, which would to be applied separately to four service baskets. The application of the price index will insure that the maximum price for any service will remain just and reasonable over the life of the plan. Consistent with these pricing constraints, the Commission granted the Company flexibility to change individual service prices each year by the amount of the change int he price cap index ("PCI"), plus 2%. The Commission, however, specifically stated as follows:

> All of the existing mechanisms to ensure equitable treatment of customers would remain in place. These include statutory requirements regarding cost allocation, imputation, and the use of a long run service incremental cost standard, as well as the nondiscrimination provisions of the Act.

Docket No. 92-0448, Order p. 191, October 11, 1994.

The tariff restructures at issue in these consolidated proceedings present an issue of first impression under the alternative regulation plan regarding the appropriate relationship between the pricing flexibility granted in the plan and the protection of consumers from unreasonable price discrimination. We agree with Staff that the Commission should articulate a broad public policy in this proceeding which will provide guidance to the Company, Staff and others on the kinds of service restructures and price changes between and within customer classes which the

Commission will consider reasonable. The criteria we are establishing in this docket will promote economic efficiency and ensure that any price differences that may develop between and within customer classes do not create any unreasonable discrimination.

The "unreasonable discrimination" standard is set forth in Section 13-505.2 of the Act, which provides as follows:

> A telecommunications carrier that offers both noncompetitive and competitive services shall offer the noncompetitive services under the same rates, terms, and conditions without unreasonable discrimination to all persons, including all telecommunications carriers and competitors. A telecommunications carrier that offers a noncompetitive service together with any optional feature or functionality shall offer the noncompetitive service together with each optional feature or functionality under the same rates, terms, and conditions without unreasonable discrimination to al persons, including all telecommunications carriers and competitors.

The main issue in this proceeding is whether economic price discrimination which is defined as charging different prices for products or services that have the same cost, or charging the same price for products or services that have different costs, constitutes "unreasonable price discrimination" under the Act.

The Commission rejects MCI's position that economic price discrimination automatically constitutes unreasonable discrimination. The Commission is of the opinion that the key to determining whether economic price discrimination constitutes unreasonable discrimination under the Act requires a determination of what is in the public interest. The Commission agrees with Mr. Jennings that in determining whether the public interest is served, the Commission must look at the factors of economic efficiency and fairness.

Economic efficiency is a key goal in regulation. Where setting the price of a product or service equal to the marginal cost of producing that good or service is not possible, as is the case with Ameritech, some form of economic price discrimination can improve economic efficiency relative to a uniform price structure because it allows the Company to price its services closer to marginal cost. In turn, with prices set closer to marginal cost, artificially high prices are minimized and uneconomic entry by potential competitors is discouraged.

The Commission, however, is cognizant of the fact that economic price discrimination can only promote economic efficiency

when the price of a service is set above marginal cost. The Company cannot be allowed to set the price for a service below marginal cost and, thus, discourage a more efficient competitor from offering that service. To avoid this type of predatory pricing, the Company cannot price a noncompetitive service below the LRSIC for that service, except in certain circumstances discussed below.

With respect to the fairness, the Commission must determine the effect of pricing structure on captive consumers. A pricing structure could be deemed as not in the public interest because it is grossly unfair to certain consumers or counter to existing Commission or statutory policies, even though some consumers benefit and others are no worse off.

The Commission, therefore, agrees with and adopts the analytical framework recommended by Mr. Jennings for determining whether tariff restructures and price discrimination will be permitted between or within customer classes. The following three criteria must be met before economic price discrimination can be considered reasonable under the act:

1. Prices are set no higher than the price index permits under the alternative regulation plan, i.e., a price cannot increase by more than he change in the PCI plus 2% each year;

2. Prices are set above LRSIC, with imputation of noncompetitive tariffed inputs in each submarket; and

3. In the judgment of the Commission, the prices are fair based on a consideration of other relevant Commission policies and objectives.

Application of these criteria on a consistent basis will promote economic efficiency, while assuring no unreasonable discrimination. In conducting the fairness review provided in the third criteria, the Commission will be guided by relevant policies and public interest considerations set forth in the Act, the Commission's rules and other Commission orders.

We agree with Mr. Jennings that the criteria we are establishing should apply to instances of economic price discrimination both between and within customer classes. We also agree with the Company that there are many possible bases for classifying or subclassifying services, including customer class, volume of service, density of service, geographic location of service, market entry conditions or other factors wheredifferential pricing would promote economic efficiency. We further agree with Mr. Jennings that the criteria adopted herein should be applied in

analyzing any tariff changes which create price differences between or within customer classes regardless of the reason for the price differentiation.

It is the Commmission's intent that these three criteria be applied separately to each subclass of service or submarket that might be created in the future. Separate informational imputation studies must also be performed for each submarket or subclass of service.

We are cognizant of the caveat expressed by Mr. Gebhardt that there may unusual circumstances where the Commission should recognize exceptions to the general rules stated above, particularly the requirement that all noncompetitive services should be price above LRSIC. However, there are no exceptions suggested for the tariff filings specifically at issue in this proceeding, and the Commission will not attempt to anticipate possible exceptions which might appropriately apply in the future. Any such issues can be considered on a case by case basis, when and if they arise.

In addition to establishing the criteria to be applied in analyzing future tariff filings, the Commission approves the individual rate restructures specially at issue, namely, the creation of separate rate elements for single line and multiline business network access lines and for business and residence directory assistance. The Commission agrees that these filings are consistent with the criteria set forth herein. We wish to make clear that Customers First rule requiring that the price of a bundled network access line be equal to or greater than the price of the unbundled loops and ports also applies. That is, the sum of the charges for multiline business network access lines offered in the submarket must be equal to or greater than the sum of the charges for similar volumes of unbundled loops and ports offered in that submarket.

We also agree that there should be no restrictions on resale of these services or other services offered in a submarket except for the existing Commission approved restrictions on the resale of residence services to business customers. Mr. Gebhardt states that while the Company is not proposing any resale restrictions on the services at issue in this proceeding, the Commission is currently considering the issue of resale of services in other pending proceedings. Therefore, the Commission should not address generic resale issues in this docket. The Commission notes that it conclusion on resale in this docket is consistent with its existing policy on resale and is, therefore, appropriate. Our conclusion in this docket, however, is not intended to foreclose review or modification of the resale restrictions in other proceedings.

Finally, we agree with Staff that is not the appropriate proceeding to consider the transfer of business directory assistance service from the other service basket to the Business service basket under the alternative regulation plan. If the Company wishes the Commission to consider this transfer, it should include the proposal as part of its April, 1996, price cap index filing. Other parties will then have an appropriate opportunity to respond to the proposal at that time.

IV. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein, and being fully advised in the premises thereof, is of the opinion and finds that:

1) Illinois Bell Telephone Company is an Illinois corporation enraged in business of providing telecommunications services to the public in the State of Illinois and, as such, is a telecommunications carrier within the meaning of Section 13-202 of the Public Utilities Act;

2) the Commission has jurisdiction over Illinois Bell Telephone Company and the subject matter of this proceeding;

3) the recital of facts and conclusions reached in the prefatory portion of this Order are supported by evidence of record, and are hereby adopted as findings of fact and conclusions of law for the purpose of this Order;

4) On March 30, 1995, Illinois Bell Telephone Company filed revised tariffs establishing separate rate elements for noncompetitive business and residence directory assistance service;

5) On May 3, 1995, the Commission suspended the proposed tariffs to and including August 27, 1995. On August 15, 1995. On August 16, 1995, the Commission resuspended the tariffs to and including February 27, 1996;

6) the evidence presented in the record supports the approval of these tariff filings as being just and reasonable, not unreasonably discriminatory and consistent with the Commission's alternative regulation plan Order in Docket 92-0448;

7) the evidence also supports the establishment of a broader public policy that any tariff filings by the Company seeking to reclassify services into subclasses or to

change prices of service within a subclass should comply with the three criteria set out in the preceding section of this order;

8) any objections or motions, filed in this proceeding which remain undisposed of should be disposed of in a manner consistent with the ultimate conclusions herein.

IT IS THEREFORE ORDERED that Illinois Bell Telephone Company's tariffs creating separate rate elements for noncompetitive single line and multiline business network access line service and for noncompetitive business and residence directory assistance service are approved, and the suspension order enter August 16, 1995, is vacated.

IT IS FURTHER ORDERED that all motion not previously disposed of are hereby disposed of consistent with the findings of this Order.

IT IS FURTHER ORDERED that subject to the provision of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Act.

By Order of the Commission this 7th day of February, 1996.

(SIGNED) DAN MILLER

Chairman

(S E A L)

ATTACHMENT G

WINSTAR WIRELESS OF ILLINOIS, INC.

March 27, 1996 Order in Docket 95-0616
May 8, 1996 Amendatory Order in Docket 95-0616

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

WinStar Wireless of Illinois, Inc.	:	
	:	
Application for a Certificate of Service Authority to Provide Facilities based and resold local and Interexchange Telecommunications Service in the areas of MSA-1.	:	95-0616

ORDER

By the Commission:

On December 7, 1995, WinStar Wireless of Illinois, Inc. ("WinStar" or "Applicant") filed its verified application requesting the issuance of a certificate of service authority to authorize it, under Sections 13-403, 13-404, and 13-405 of the Public Utilities Act ("Act"), to operate on both a facilities and resale basis (i) as an interexchange telecommunications carrier throughout Illinois and (ii) as a local exchange carrier ("LEC") with both switched and dedicated local exchange services in Illinois Bell Telephone Company of Illinois' ("Ameritech Illinois") service areas throughout Illinois, and in portions of MSA-1 served by Central Telephone Company of Illinois ("Centel").

Petitions to Intervene were filed, and were granted by the Hearing Examiner, as follows: Centel and AT&T Communications of Illinois, Inc.

Pursuant to notice as required by law and the rules and regulations of the Commission, this matter came on for hearing before a duly authorized Hearing Examiner at the Commission's Chicago offices on January 18 and March 11, 1996. WinStar filed an Amendment to Application which was granted by the Hearing Examiner. Applicant was represented by counsel and presented the Direct and Reply Testimony of Mr. David W. Ackerman, Applicant's President. Judith Marshall, Supervisor of the Accounting Section, Telecommunications Department of the Public Utilities Division, and Cindy Jackson, Staff Liaison in the Consumer Services Division of the Commission, also filed prepared testimony. None of the intervening parties filed testimony in this proceeding. At the conclusion of the hearing on March 11, 1996, the record was marked "Heard and Taken."

Mr. Ackerman testified that Applicant is a Delaware corporation authorized to do business in Illinois and is a wholly-owned subsidiary of WinStar Communications, Inc. He explained that

Applicant seeks to provide interexchange authority throughout Illinois and local exchange authority in all of Ameritech's Illinois service areas and Centel's territory within MSA-1. He explained that Applicant seeks to provide long distance and local exchange telecommunications services and described the specific services it proposes to offer, in part, by means of its own facilities and microwave system. He further testified as to Applicant's technical, financial, and managerial qualifications to provide local exchange services and as to the de minimis impact that a grant of the Application would have on the prices, the network design, and the financial viability of Ameritech and Centel. Further, he testified as to the benefits that would result to the public and the industry from Applicant's ability to operate within Illinois.

He testified as to WinStar's plans to provide local exchange services through a combination of resold facilities from existing carriers and those built by Applicant where economics and necessity demand facilities to be built.

Mr. Ackerman stated that WinStar has requested waivers from 83 Ill. Admin. Code 710 (Uniform System of Accounts). He provided detail of Applicant's compliance with numerous consumer-related issues. He also requested that Applicant's books and records be kept in Virginia in accordance with Section 5-106 of the Act.

On behalf of Staff, Ms. Marshall's testimony addressed the request for a waiver from Ill. Admin. Code Part 710 (Uniform System of Accounts) and her testimony stated that Applicant had met the requirements for a waiver from Part 710 Ms. Marshall indicated that Staff supported a waiver of Part 710 for the above. Ms. Marshall also stated that Staff recommends that the Commission approve the Application. Ms. Jackson's testimony centered around her concerns regarding WinStar's provision of telecommunications relay service, participation in the Text Telephone distribution program, universal service programs, and the 9-1-1 program. She did not object to granting the application.

WinStar has provided sufficient documentation and evidence to show it has the required financial and managerial resources to offer interexchange services in Illinois and, also, operate as a reseller and facilities-based provider of local exchange telecommunications services.

Through its Application, and Mr. Ackerman's testimony, WinStar demonstrated that it has the technical resources to provide interexchange services, and local exchange service, and that a grant of the 13-405 certificate would not adversely impact the network design of Ameritech and Centel. Moreover, there was no objection or cross-examination pertaining to the de minimis impact

of the certification on prices and financial viability of incumbent carriers. Mr. Ackerman's Reply Testimony indicated that Applicant will comply with 83 Ill. Admin. Code Part 725 (Emergency Telephone System Act).

The granting of this Application is without prejudice to the position of any party with respect to any interconnection or operating issue which might arise during any additional proceedings before the Commission concerning WinStar's desire to obtain these necessary arrangements from local exchange carriers. Moreover, to the extent the Commission may impose requirements on any carriers, such as Applicant, in a subsequent rulemaking proceeding, the certification granted here will be subject to such requirements.

The Commission makes no finding, at this time, as to whether the services offered by WinStar will be classified as competitive or non-competitive.

The Commission concludes that the grant of WinStar's application is consistent with Sections 13-403, 13-404, and 13-405 of the Act. The Commission finds that Applicant possesses the requisite technical, financial and managerial resources to provide services pursuant to certificates of authority to operate under Sections 13-403, 13-404, and 13-405 of the Act. The Commission also finds that, based on the evidence presented, the authority sought by the application will not adversely impact the prices, financial viability, or network design of Ameritech or Centel.

The Commission being fully advised in the premises is of the opinion and finds that:

(1) Applicant, WinStar Wireless of Illinois, Inc., is a Delaware Corporation seeking to obtain certificate of service authority pursuant to Section(s) 13-403, 13-404, and 13-405 of the Illinois Public Utilities Act in order to provide both switched and dedicated, resale and facilities based, interexchange services throughout Illinois and local exchange telecommunications services in Illinois' service areas throughout Illinois and in those portions of Market Service Area 1 served by Central Telephone Company of Illinois and Ameritech Illinois;

(2) the Commission has jurisdiction over the Applicant and the subject matter of this proceeding;

(3) the recitals of fact and conclusions thereon stated in the prefatory portions of this Order are supported by the record and are hereby adopted as findings of fact;

(4) as required by Sections 13-403, 13-404, and 13-405 of the

Act, WinStar possesses sufficient technical, financial, and managerial resources and abilities to provide local exchange telecommunications services;

(5) as further required by Section 13-405, the provision of such services by Applicant pursuant to this request for additional authority will not adversely impact the prices, financial viability, or network design of Ameritech Illinois or Centel;

(6) Applicant is granted a waiver from 83 Ill. Admin. Code 710, the Uniform System of Accounts for Telecommunications Carriers, as long as Applicant continues to maintain its accounting records in accordance with Generally Accepted Accounting Principles in a level of detail similar to the accounting system which it currently uses and in sufficient detail to comply with all applicable tax laws, with the recognition that this issue could be revisited through a generic proceeding;

(7) before commencing service, Applicant should file with the Commission any tariffs necessary, consisting of its rates, rules and regulations to be effective upon proper filing, before commencing any of the proposed telecommunications services;

(8) Applicant should establish books of account such that revenues from its telecommunications services, subject to the public utility revenue tax, are segregated from the revenues derived from other business activities not regulated by this Commission;

(9) pursuant to Section 5-106 of the Act and 83 Ill. Admin. Code 250, Applicant should be allowed to keep its books and records outside the State of Illinois in the State of Virginia.

IT IS THEREFORE ORDERED that WinStar Wireless of Illinois, Inc. is granted certificates of service authority pursuant to Sections 13-403, 13-404, and 13-405 of the Act and that its certificates of service authority are as follows:

CERTIFICATE OF INTEREXCHANGE SERVICE AUTHORITY

IT IS HEREBY CERTIFIED that WinStar Wireless of Illinois, Inc. is authorized to provide both switched and dedicated interexchange services throughout Illinois, pursuant to Section 13-403 of the Public Utilities Act.

CERTIFICATE OF RESALE SERVICE AUTHORITY

IT IS HEREBY CERTIFIED that WinStar Wireless of Illinois, Inc. is authorized, pursuant to Section 13-404 of the Public Utilities Act, to provide resold interexchange services throughout Illinois, and resold local exchange services in portions of Market Service Area 1 served by Central Telephone Company of Illinois or Illinois Bell Telephone Company.

CERTIFICATE OF EXCHANGE SERVICE AUTHORITY

IT IS HEREBY CERTIFIED that WinStar Wireless of Illinois, Inc. is authorized, pursuant to Section 13-405 of the Public Utilities Act to provide facilities-based and resold local exchange telecommunications services in those portions of Market Service Area 1 served by Central Telephone Company of Illinois or Illinois Bell Telephone Company.

IT IS FURTHER ORDERED that WinStar Wireless of Illinois, Inc. is required to comply with the provisions of 83 Ill. Admin. Code 710, and it is also ordered to comply with the requirements of 83 Ill. Admin. Code 725 of the Emergency Telephone Systems Act.

IT IS FURTHER ORDERED that, before commencing service, WinStar Wireless of Illinois, Inc. file with this Commission the necessary tariffs consisting of its rates, rules, and regulations, to be effective upon proper filing, before commencing its telecommunications services.

IT IS FURTHER ORDERED that WinStar Wireless of Illinois, Inc. fully comply with Findings (8) and (9) herein.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Admin. Code Part 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 27th day of March, 1996.

(SIGNED) DAN MILLER

Chairman

(S E A L)

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

WinStar Wireless of Illinois, Inc.	:	
	:	
Application for a Certificate of	:	
Service Authority to Provide	:	95-0616
Facilities based and resold and	:	
Interexchange Telecommunications	:	
Service in the areas of MSA-1.	:	

AMENDATORY ORDER

By the Commission:

On March 27, 1996, the Illinois Commerce Commission entered an Order granting WinStar Wireless of Illinois ("Applicant") Certificates of Service Authority to provide facilities-based resold local and interexchange telecommunications services in the areas of MSA-1 pursuant to Sections 13-403, 13-404 and 13-405 of the Illinois Public Utilities Act. Also, as part of said Order, Finding (6) grants Applicant a waiver of the provisions of 83 Ill. Adm. Code 710, as requested by Applicant. However, in error, the first ordering paragraph on page 5 of the Order inadvertently requires Applicant to comply with Part 710.

Accordingly, the first ordering paragraph on page 5 of the Order entered on March 27, 1996 should be amended accordingly.

IT IS THEREFORE ORDERED that the aforesaid ordering paragraph be, and is hereby, amended to read, as follows:

IT IS FURTHER ORDERED that WinStar Wireless of Illinois, Inc. is ordered to comply with the requirements of 83 Ill. Adm. Code 725 of the Emergency Telephone Systems Act.

IT IS FURTHER ORDERED that in all other respects, the Commission Order of March 27, 1996 shall remain in full force and effect.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 8th day of May, 1996.

(SIGNED) DAN MILLER

Chairman

(S E A L)